UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| DAVID L. GILLILAND, and SOUTHEASTERN IMAGING GROUP, LLC, |))) |
|--|--------------------|
| Plaintiffs, v. |) CIVIL ACTION NO. |
| JONATHAN K. HERGERT |) 05-cv-1059-TFM |
| Defendant. |))) |

PLAINTIFFS' WITHDRAWAL OF ANY AND ALL "STAND ALONE CLAIMS" UNDER 70 P.S. § 1-501(a)

Plaintiffs David Gilliland and Southeastern Imaging Group, LLC (hereinafter "Plaintiffs"), by and through their counsel, DeForest Koscelnik Yokitis Kaplan & Berardinelli, hereby alert the Court and the Defendant that in light of the Court's recent ruling, they have elected to withdraw the purported new "stand alone" claims under 70 P.S. § 1-501(a) that provided the premise for Defendant's Motion for a Continuance. ¹

Having withdrawn the sole basis for Defendant's Motion, Plaintiffs are ready and intend to proceed with trial starting July 21, 2008, and Plaintiffs respectfully request the Court to reinstate the current trial schedule.

¹ Plaintiffs intend to proceed on their cause of action under 70 P.S. § 1-401 as incorporated in § 1-501.

Respectfully submitted,

Dated: July 11, 2008 <u>s/ Gary L. Kaplan</u>

Gary L. Kaplan, Pa. I.D. No. 75524 David J. Berardinelli, Pa. I.D. No. 79204 David H. Cook, Pa. I.D. No. 201059 DeFOREST KOSCELNIK YOKITIS KAPLAN & BERARDINELLI Koppers Building, 30th Floor Pittsburgh, PA 15219

Telephone: 412-227-3100 Facsimile: 412-227-3130

Counsel for Plaintiffs